



Crl.O.P.No.26641 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 06.10.2025**

CORAM:

**THE HON'BLE MR.JUSTICE N. SATHISH KUMAR**

**Crl.O.P.No.26641 of 2025**

G.Parimala

... Petitioner

Vs.

1. The State by,  
The Inspector of Police,  
K-1, Sembium Police Station,  
Chennai – 600 092.

2. Ashok Raja

... Respondents

**PRAYER** : Criminal Original Petition is filed under Section 528 of BNSS, to set aside the “return” docket order dated 25.08.2025 in Crl.M.P.No.10255 of 2025 filed under Section 156(3) of Cr.P.C on the file of the V Metropolitan Magistrate and direct him to take the petition on the file of the above petition.

For Petitioner : Mr.V.Sairam

For Respondents : Mr.R.Vinothraja  
Government Advocate (Criminal Side)

### **ORDER**

The Criminal Original Petition has been filed seeking to set aside the return order passed by the learned Magistrate in Crl.M.P.No.10255 of 2025.



Crl.O.P.No.26641 of 2025

WEB COPY 2. Heard both sides and perused the materials available on record.

3. It is the contention of the learned counsel appearing for the petitioner that the petitioner has filed a private complaint under Section 175(3) of BNSS seeking a direction to the respondent Police to register the First Information Report. Originally, on 31.07.2025, the complaint was returned with endorsement :

*“ 1) Original Complaint is not available as per Rule under 28(6) CRP.  
2) Original CSR is not found.  
Hence rtd”.*

Thereafter, the petitioner had complied with the return and represented the complaint. However, the learned Magistrate once again returned the same on 25.08.2025, stating as follows :

*“Previous return in respect of original complaint mandatory as per Rule 28(6) of CRP.  
Hence returned.”*

Challenging the above return, the present Criminal Original Petition has been filed.



WEB COPY 4. It is relevant to extract the Section 175(3) of BNSS, which reads as follows :-

“Any Magistrate empowered under Section 210 may, after considering the application supported by an Affidavit made under sub-section (4) of Section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.”

5. The above provision makes it very clear that in any private complaint supported by an affidavit, the Magistrate shall make enquiry as may be required and after hearing the submissions made in this regard by the police officer, order an investigation in accordance with law.

6. However, in the present case, the learned Magistrate has returned the complaint on the ground that the original complaint is mandatory under Section 28(6) of Criminal Rules of Practice. Rule 28 in its context deals with the prosecution of the complaint before the Magistrate. The complainant shall present, along with the complaint, as many copies on



Crl.O.P.No.26641 of 2025

the plain paper of the complaint as the number of accused persons complained against. Rule 28(6) makes it very clear that where the Court passes an order under Section 156(3) of Cr.P.C (corresponding to section 175(3) of BNSS) directing investigation by the police, the court shall forward the original complaint with a copy of the order to the police, retain the copy of the complaint and the order in the original and shall also make an entry in the complaint register.

7. Rule 28(6), in fact, deals with the manner in which the complaint is to be forwarded after the Magistrate passes the order. Therefore, the return of the complaint is unwarranted. Hence the order of return made by the learned Magistrate is liable to be set aside.

8. Accordingly, this Criminal Original Petition stands allowed, the order of return made by the V Metropolitan Magistrate, in Crl.M.P.No.10255 of 2025 is hereby set aside and the learned Magistrate, is directed to number the application and decide the matter in accordance with law. Before ordering any investigation under Section 175(3) of BNSS, the learned Magistrate shall afford an opportunity of hearing to the police officer concerned as per the said provision.



Crl.O.P.No.26641 of 2025

WEB COPY

06.10.2025

*ham*

Neutral Citation: Yes/No

Note : Registry is directed to return the original papers to the counsel for the petitioner forthwith.

To

1. The V Metropolitan Magistrate,  
Egmore, Chennai.
2. The Inspector of Police,  
K-1, Sembium Police Station,  
Chennai – 600 092.
3. The Public Prosecutor,  
High Court of Madras.



WEB COPY



Crl.O.P.No.26641 of 2025

**N. SATHISH KUMAR, J.**  
*ham*

***Crl.O.P.No.26641 of 2025***

***06.10.2025***